

# The Einsatzgruppen Trial

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## Historical Background

The *Einsatzgruppen* trial was the ninth of 12 American-run trials held after the International Military Tribunal (IMT) at the Palace of Justice in Nuremberg, Germany. The trial was officially titled “The United States of America v. Otto Ohlendorf et al.” and lasted from September 29, 1947 to April 10, 1948. The court indicted 24 *Einsatzgruppen* leaders on three counts of criminality: crimes against humanity, war crimes, and membership in organizations declared criminal by the IMT. Only 22 defendants were tried because one committed suicide and another had to be excluded for health reasons. [\[1\]](#)

Benjamin Ferencz, a 27-year-old Harvard-educated attorney, was appointed by Telford Taylor as chief prosecutor in the case. The prosecution’s case was based primarily on the *Einsatzgruppen* reports his team had discovered in Berlin. Ferencz later said about the *Einsatzgruppen* reports: [\[2\]](#)

*“So we had the names of each town and village, the date, the number of people killed, the name of the unit, the officer in charge, and other officers. I sat down in my office with a little adding machine, and I began to count the people that were murdered in cold blood. When I reached a million, I said that’s enough for me. I flew from Berlin to Nuremberg, to see Telford Taylor, who by then was a general. And I said, we’ve got to put on another trial.”*

Ferencz said the *Einsatzgruppen* trial would not have taken place if his team had not had the extraordinary luck of finding these reports. [\[3\]](#)

The presentation of the prosecution’s evidence lasted less than two days and consisted mainly of excerpts from the *Einsatzgruppen* reports. Ferencz and the four attorneys assisting him called no prosecution witnesses and presented no films during the trial. Thus, the Nuremberg prosecutors set out to prove by documentation alone that the defendants had participated in some of the worst crimes of the National Socialist regime. [\[4\]](#) Since the *Einsatzgruppen* reports were crucial to the prosecution’s case, we will examine the validity of these reports.

## The *Einsatzgruppen* Reports

The *Einsatzgruppen* sent reports of their activities back to Berlin by radio. These reports were transcribed and edited by civil servants and distributed in summary format to non-SS offices such as the German Foreign Office. None of these reports exist today in the original—all of them are copies. [\[5\]](#)

That the Germans let copies of the *Einsatzgruppen* reports fall into the hands of the Allies is strikingly odd. They could have easily burned these few stacks of incriminating papers before the Allies conquered Germany. [\[6\]](#) The authenticity of the *Einsatzgruppen* reports has also been questioned because, like so much other “evidence” of Nazi atrocities, the documents emerged from the Soviet occupation zone. [\[7\]](#)

The copies of the *Einsatzgruppen* reports which have been produced show clear signs of postwar additions. A typical example is *Einsatzgruppen* Report No. 111. Peter Winter writes that this report contains not only completely garbled wording, but also a clear addition to the end of a paragraph (highlighted in italics below) [\[8\]](#):

*These were the motives for the executions carried out by the Kommandos: Political officials, looters and saboteurs, active Communists and political representatives, Jews who gained their release from prison camps by false statements, agents and informers of the NKVD, persons who, by false depositions and influencing witnesses, were instrumental in the deportation of ethnic Germans, Jewish sadism and renegefulness, undesirable elements, partisans, Politruks, dangers of plague and epidemics, members of Russian bands, armed insurgents—provisioning of Russian bands, rebels and agitators, drifting juveniles, Jews in general.*

Dr. Arthur Robert Butz also questions the authenticity of the *Einsatzgruppen* reports. Butz writes [9]:

*They [the documents] are mimeographed and signatures are most rare and, when they occur, appear on non-incriminating pages. Document NO-3159, for example, has a signature, R. R. Strauch, but only on a covering page giving the locations of various units of the *Einsatzgruppen*. There is also NO-1128, allegedly from Himmler to Hitler reporting, among other things, the execution of 363,211 Russian Jews in August-November 1942. This claim occurs on page four of NO-1128, while initials said to be Himmler's occur on the irrelevant page one. Moreover, Himmler's initials were easy to forge: three vertical lines with a horizontal line drawn through them.*

Carlo Mattogno has shown that the figures quoted in the *Einsatzgruppen* reports are inaccurate. Mattogno writes [10]:

*For example, in the summary of the activity of *Einsatzgruppe A* (October 16, 1941, to January 31, 1942) the number of Jews present in Latvia at the arrival of the German troops is 70,000, but the number of Jews shot is reported as being 71,184! Furthermore, another 3,750 Jews were alive in work camps. In Lithuania, there were 153,743 Jews, of which 136,421 were allegedly shot, whereas 34,500 were taken to the ghettos at Kaunas, Wilna, and Schaulen, but the total of those two figures is 170,921 Jews!*

The British trial of German Field Marshall Erich von Manstein in Hamburg, Germany also proved the inaccuracy of the *Einsatzgruppen* reports. The prosecution's case was based on the reports showing that *Einsatzgruppe D* under the command of Otto Ohlendorf had executed some 85,000 Jews in four and one-half months. Manstein's defense attorney, Reginald T. Paget, wrote that these claims seemed quite impossible [11]:

*In one instance we were able to check their figures. The S.D. claimed that they had killed 10,000 in Simferopol during November and in December they reported Simferopol clear of Jews. By a series of cross checks we were able to establish that the execution of the Jews in Simferopol had taken place on a single day, 16<sup>th</sup> November. Only one company of S.D. was in Simferopol. The place of execution was 15 kilometers from the town. The numbers involved could not have been more than about 300. These 300 were probably not exclusively Jews but a miscellaneous collection of people who were being held on suspicion of resistance activity...*

*It was indeed clear that the Jewish community had continued to function quite openly in Simferopol and although several of our witnesses had heard rumors about an S.D. excess committed against Jews in Simferopol, it certainly appeared that this Jewish community was unaware of any special danger...*

*By the time we had finished with the figures and pointed out the repeated self-contradiction in the S.D. reports, it became probable that at least one "0" would have to be knocked off the total claimed by the S.D. and we also established that only about one-third of Ohlendorf's activities had taken place in von*

*Manstein's area. It is impossible to know even the approximate number of murdered Jews, for not only was Ohlendorf lying to his superiors but as we were able to show, his company commanders were lying to him.*

Von Manstein testified that he had no knowledge that *Einsatzgruppe D* or the German army had a policy of murdering Jews. The court believed Manstein and found him innocent of murdering Jews. [\[12\]](#)

### **Benjamin Ferencz's Credibility**

Benjamin Ferencz has made statements that call into question his independence and integrity. For example, the defense counsel at the Mauthausen trial in Dachau insisted that signed confessions of the accused, used by the prosecution to great effect, had been extracted from the defendants through physical abuse, coercion and deceit. [\[13\]](#) Benjamin Ferencz admits in an interview that these defense counsel's claims were correct [\[14\]](#):

*You know how I got witness statements? I'd go into a village where, say, an American pilot had parachuted and been beaten to death and line everyone up against the wall. Then I'd say, "Anyone who lies will be shot on the spot." It never occurred to me that statements taken under duress would be invalid.*

In the same interview, Ferencz admits that he observed the torturing and execution of a captured Nazi at a concentration camp [\[15\]](#):

*I once saw DPs [Displaced Persons] beat an SS man and then strap him to the steel gurney of a crematorium. They slid him in the oven, turned on the heat and took him back out. Beat him again, and put him back in until he was burnt alive. I did nothing to stop it. I suppose I could have brandished my weapon or shot in the air, but I was not inclined to do so. Does that make me an accomplice to murder?*

Ferencz, who enjoys an international reputation as a world-peace advocate, further relates a story concerning the interrogation of an SS colonel. Ferencz explains that he took out his pistol in order to intimidate him [\[16\]](#):

*What do you do when he thinks he's still in charge? I've got to show him that I'm in charge. All I've got to do is squeeze the trigger and mark it as auf der Flucht erschossen [shot while trying to escape]...I said "you are in a filthy uniform sir, take it off!" I stripped him naked and threw his clothes out the window. He stood there naked for half an hour, covering his balls with his hands, not looking nearly like the SS officer he was reported to be. Then I said "now listen, you and I are gonna have an understanding right now. I am a Jew—I would love to kill you and mark you down as auf der Flucht erschossen, but I'm gonna do what you would never do. You are gonna sit down and write out exactly what happened—when you entered the camp, who was there, how many died, why they died, everything else about it. Or, you don't have to do that—you are under no obligation—you can write a note of five lines to your wife, and I will try to deliver it..." [Ferencz gets the desired statement and continues:] I then went to someone outside and said "Major, I got this affidavit, but I'm not gonna use it—it is a coerced confession. I want you to go in, be nice to him, and have him re-write it." The second one seemed to be okay—I told him to keep the second one and destroy the first one. That was it.*

Peter Winter asks the question: "Is this the sort of 'objective' legal person who can be relied upon to produce evidence at a major trial?" [\[17\]](#) The fact that Ferencz threatened and humiliated his witness and

reported as much to his superior officer indicates that he operated in a culture where such illegal methods were acceptable.[\[18\]](#) Any lawyer knows that such evidence is not admissible in a legitimate court of law.

### **Defendants' Testimony**

Otto Ohlendorf testified at the IMT that *Einsatzgruppe D*, the mobile security unit he commanded in the Crimea between June 1941 and 1942, was responsible for the murder of approximately 90,000 people. Ohlendorf's testimony horrified the court and had a depressing effect on the defendants. Dr. Gustav M. Gilbert, the American prison psychologist, wrote that Ohlendorf's testimony established "the inescapable reality and shame of mass murder...by the unquestionable reliability of a German official."[\[19\]](#)

British attorney Reginald Paget, however, questioned the validity of Ohlendorf's testimony at the IMT. Paget wrote: "Ohlendorf had reported that not only Simferopol but the whole Crimea was cleared of Jews. He was clearly a man who was prepared to say anything that would please his employers. The Americans, also, had found him the perfect witness."[\[20\]](#)

Otto Ohlendorf at the *Einsatzgruppen* trial retracted his earlier testimony at the IMT that there had been a specific policy to exterminate Jews on racial or religious grounds. Under cross examination, Ohlendorf testified that any Jews or Gypsies killed by his Group D were killed as part of anti-partisan activities. Ohlendorf also testified that only 40,000 people had been executed by his Group D instead of the 90,000 that he had testified to at the IMT.[\[21\]](#)

Another defendant at the *Einsatzgruppen* trial, Walter Haensch, testified that he knew nothing of the murder of the Jews and denied any criminal wrongdoing by his *Kommando* while he was its leader. Haensch claimed he first learned of the murder of Jews in July 1947 when his interrogator at Nuremberg told him of the Final Solution. Haensch testified that the *Einsatzgruppen* reports that contradicted his testimony were inaccurate. After the trial, Haensch became so obsessed with proving his innocence that he refused to apply for parole, hoping that American officials would see their error and grant him the clemency he deserved.[\[22\]](#)

Benjamin Ferencz claims the *Einsatzgruppen* reports were definitive proof that the *Einsatzgruppen* had mass murdered Jews. Ferencz states: "There were times when I felt outraged. For example, the day one defendant, a colonel, said: 'What, Jews were shot? I hear that in this courtroom for the first time.' We had the records of every day that man was out murdering, and he had the gall to say that. I was ready to jump over the bar and poke my fingers into his eyes."[\[23\]](#)

Michael Musmanno, the presiding judge, provided the defendants with wide latitude in their presentation of evidence in the *Einsatzgruppen* trial. However, Ferencz writes that Musmanno was convinced early on of the defendants' guilt[\[24\]](#):

*The judge handed down worse sentences than I would have imposed. So he had made up his mind, early on, that he wasn't going to be deceived. For him the question was how to sentence them. He was a devout Catholic, and he went into a monastery for a week before sentencing. He convicted all 22 people, and of these he sentenced 13 to death by hanging. During the trial, he had let everyone say whatever they wanted to say. He gave so much leeway; he was leaning over backwards to show the world that it was a fair trial.*

## Conclusion

Four *Einsatzgruppen* units altogether numbering 3,000 men—including non-combat troops such as drivers, interpreters, and radiomen—became operational soon after the German invasion of the Soviet Union. One of their missions indisputably consisted of fighting against partisans, and in pursuit of this mission they performed numerous mass shootings.<sup>[25]</sup>

The official Holocaust historiography, however, claims that the *Einsatzgruppen* had the additional task of committing genocide against Soviet Jews. The *Einsatzgruppen* reports, which fall into the period from June 1941 to May 1942, are the primary proof of this alleged genocide. The *Einsatzgruppen* reports that have been produced are copies which show clear signs of postwar additions, inaccurate and inflated figures, and obscure signatures appearing on non-incriminating pages. Such reports would not constitute valid proof for legitimate historiography or a legitimate court of law.<sup>[26]</sup>

The defendants at the *Einsatzgruppen* trial did not receive a fair hearing. The shootings carried out by the *Einsatzgruppen* were not nearly as extensive as claimed at the trial, for the numbers mentioned in the *Einsatzgruppen* reports cannot be objectively confirmed and in many cases are demonstrably exaggerated. These reports provide no basis in justice or fact to convict the *Einsatzgruppen* defendants of genocide against Soviet Jewry.<sup>[27]</sup>

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## Endnotes

- <sup>[1]</sup> Earl, Hilary, *The Nuremberg SS-Einsatzgruppen Trial, 1945-1958*, New York: Cambridge University Press, 2009, pp. 1, 9-11.
- <sup>[2]</sup> Stuart, Heikelina Verriijn and Simons, Marlise, *The Prosecutor and the Judge*, Amsterdam: Amsterdam University Press, 2009, pp. 14-15.
- <sup>[3]</sup> *Ibid.*, p. 14.
- <sup>[4]</sup> Earl, Hilary, *The Nuremberg SS-Einsatzgruppen Trial, 1945-1958*, New York: Cambridge University Press, 2009, pp. 179-180.
- <sup>[5]</sup> Winter, Peter, *The Six Million: Fact or Fiction?*, The Revisionist Press, 2015, p. 24.
- <sup>[6]</sup> Mattogno, Carlo and Graf, Jürgen, *Treblinka: Transit Camp or Extermination Camp?*, Washington, D.C.: The Barnes Review, 2010, p. 204.
- <sup>[7]</sup> Winter, Peter, *The Six Million: Fact or Fiction?*, The Revisionist Press, 2015, p. 25
- <sup>[8]</sup> *Ibid.*, pp. 24-25.

- [9] Butz, Arthur R., *The Hoax of the Twentieth Century: The Case against the Presumed Extermination of European Jewry*, ninth edition, Newport Beach, Cal.: Institute for Historical Review, 1993, p. 198.
- [10] Rudolf, Germar and Mattogno, Carlo, *Auschwitz Lies: Legends, Lies & Prejudices on the Holocaust*, Washington, D.C.: The Barnes Review, 2011, p. 243.
- [11] Paget, Reginald T., *Manstein: His Campaigns and His Trial*, London: Collins, 1951, pp. 169-172.
- [12] *Ibid.*, p. 174.
- [13] Jardim, Tomaz, *The Mauthausen Trial*, Cambridge, Mass.: Harvard University Press, 2012, p. 6.
- [14] Brzezinski, Matthew, "Giving Hitler Hell", *The Washington Post Magazine*, July 24, 2005, p. 26.
- [15] *Ibid.*
- [16] Jardim, Tomaz, *The Mauthausen Trial*, Cambridge, Mass.: Harvard University Press, 2012, pp. 82-83.
- [17] Winter, Peter, *The Six Million: Fact or Fiction?*, The Revisionist Press, 2015, p. 24.
- [18] Jardim, Tomaz, *The Mauthausen Trial*, Cambridge, Mass.: Harvard University Press, 2012, p. 83.
- [19] Earl, Hilary, *The Nuremberg SS-Einsatzgruppen Trial, 1945-1958*, New York: Cambridge University Press, 2009, p. 72.
- [20] Paget, Reginald T., *Manstein: His Campaigns and His Trial*, London: Collins, 1951, p. 171.
- [21] Butz, Arthur R., *The Hoax of the Twentieth Century: The Case against the Presumed Extermination of European Jewry*, ninth edition, Newport Beach, Cal.: Institute for Historical Review, 1993, p. 202.
- [22] Earl, Hilary, *The Nuremberg SS-Einsatzgruppen Trial, 1945-1958*, New York: Cambridge University Press, 2009, pp. 162-163.
- [23] Stuart, Heikelina Verriijn and Simons, Marlise, *The Prosecutor and the Judge*, Amsterdam: Amsterdam University Press, 2009, p. 19.
- [24] *Ibid.*, pp. 19-20.

- [25] Mattogno, Carlo and Graf, Jürgen, *Treblinka: Transit Camp or Extermination Camp?*, Washington, D.C.: The Barnes Review, 2010, pp. 203, 205.
- [26] *Ibid.*, pp. 203-211.
- [27] *Ibid.*, pp. 208-211.

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